

November 10, 1982

SUBJECT: INSURANCE

WITHDRAWN

CIRCULAR LETTER NO. 29 (1982)

DATED: NOVEMBER 10, 1982

TO: ALL EXCESS LINE BROKERS

SUBJECT: REGULATION 41 (11 NYCRR 27) TRUST FUNDS REQUIRED OF FOREIGN UNAUTHORIZED INSURERS

It has come to our attention that certain excess line brokers have placed insurance with foreign unauthorized insurers who do not maintain the trust funds required by Regulation 41 of this Department (11 NYCRR 27.5).

These excess line brokers have been and are accepting the existence of deposits maintained with various other states by the unauthorized insurers although the trust agreements, if any, do not meet the requirements of Regulation 41.

In order to satisfy the requirements of Regulation 41, the trust fund established by a foreign unauthorized insurer must be maintained in one or more New York State banks and/or members of the Federal Reserve System and must consist of cash, a clean irrevocable letter of credit issued by a banking institution and in a form approved by the Superintendent; or readily marketable securities, in the amount of \$ 750,000.00 for the protection of all United States policyholders and beneficiaries on policies written in States where the company does business as an unauthorized insurer. A trust fund established for the benefit of policyholders and beneficiaries on policies written in States where the company is licensed does not meet the requirements of Regulation 41.

The trust agreement must contain all of the provisions specifically enumerated in Regulation 41 (11 NYCRR 27.5) involving such matters as the payment of claims, the liquidation of the trust funds at the direction of the Superintendent of Insurance pursuant to Article XVI of the New York Insurance Law, the term of the trust agreement and the responsibilities of the trustee in the event of termination.